IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

LA.App..No. 286 of 2001()

LAR.132/1988 of II ADDL.SUB COURT,THRISSUR
.....

APPELLANT/2nd RESPONDENT IN L.A.R.:

THE THRISSUR MUNICIPALITY, THRISSUR REPRESENTED
BY MUNICIPAL SECRETARY, THRISSUR
(MUNICIPALITY THRISSUR - NOW RE-CONSTITUTED AS THE
CORPORATION OF THRISSUR.)

BY ADV. SRI.K.P.VIJAYAN
ADV. SMT.P.F.ROSY
ADV. SMT.C.B.SUMA DEVI
ADV. SRI.SURESH SAMUEL
ADV. SRI.V.M.SYAM KUMAR

RESPONDENTS/CLAIMANT & FIRST RESPONDENT IN L.A.R:
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1. C.N. JAYASANKARAN, S/O. CHERUKANDANTH NARAYANAN, XVII/241,ENGINEER ROAD, CHEMBUKKAVU, THRISSUR.

2. THE SPECIAL TAHSILDAR (LA), THRISSUR MUNICIPALITY, THRISSUR.

R2 BY GOVERNMENT PLEADER ADV. SHRI MANOJ.
BY ADDL.ADVOCATE GENERAL ADV. SHRI V.K. BEERAN.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 28/02/2007 ALONG WITH L.A.A. Nos. 287, 289, 290 AND 291 OF 2001, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. No. 1463 of 2001 IN L.A.A.NO. 286 OF 2001

DISMISSED.

28.02.2007

SD/- KURIAN JOSEPH, JUDGE.
SD/- K.T. SANKARAN, JUDGE.

/true copy/

P.A. TO JUDGE

KURIAN JOSEPH & K.T. SANKARAN, JJ.

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L.A.A. Nos. 291, 287, 286, 289

AND 290 OF 2001.

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Dated this the 28th February, 2007

J U D G M E N T

Sankaran, J:

These Land Acquisition Appeals are filed by the requisitioning authority challenging the judgment and decree in L.A.R.Nos. 130, 131, 132, 133 and 134 of 1988 respectively. Acquisition was for the purpose of improvement of the Thrissur Municipal Stadium Block No.1. Notification was published in the Kerala Gazette on 18.05.1976. Award was passed on 23.09.1986. Dissatisfied with the award, claimants filed applications for reference. They contended before the reference court that the amount awarded by the Land Acquisition Officer is very low and that they are entitled to get land value at the rate ranging from Rs.30,000/- to 50,000/- per cent. They contended that the acquired property is situated in an

important area in Thrissur town. Ramanilayam, Regional Theatre, Joseph Mundassery Hall, Municipal Stadium, Indoor Stadium, Bus stand, Swimming Pool etc are situated near the acquired property.

2. Acquisitioning authority and the requisitioning authority contended that the value awarded by the Land Acquisition Officer was just and proper. Sale deed Nos. 2832/75, 3577/75 and 1931/86 were taken as basis documents. They contended that the lands covered by the basis documents are similar and similarly placed when compared to the acquired lands.

3. Originally, the reference court had disposed of the cases by the common judgment dated 28.02.1994, granting enhancement at the rate of Rs. 25,000/- per cent . The requisitioning authority, viz., Thrissur Municipality was not a party to the proceedings then. O.P.No. 13737 of 1996 was filed by the requisitioning authority challenging the judgment and decree on the ground that it was not made a party to the proceedings . The High Court set aside the judgment and decree of the reference court on the ground that the requisitioning authority was not made a party. A

direction was given to the requisitioning authority to deposit the amount awarded, which was challenged before the Honourable Supreme Court and the Honourable Supreme Court granted a stay on condition of depositing of 50% of the enhanced compensation . Finally, the Honourable Supreme Court directed the reference court to consider the matter afresh in the light of the directions issued by the High Court.

4. At the time when the reference cases were disposed of on 28.02.1994, the evidence available before the court below was Exts. A1 to A3, Ext.X1 and the oral evidence of A.Ws. 1 to 5 . After the remand, a statement was filed by the requisitioning authority contending that the amount awarded by the Land Acquisition Officer was reasonable, fair and just. After the remand, A.W.1 was cross examined. A.Ws. 6,7 and 8 were also examined on the side of the claimants. On the side of the requisitioning authority, R.W.1 was examined and Exts. R1 and R2 were marked.

5. The Land Acquisition Officer had fixed the land value at the rate of Rs. 4,000/- per Are for dry lands included in Group No. I and at

Rs.2750/- per Are for the lands included in Group No.II. It would appear that the claimants in L.A.R.Nos. 130, 131 and 132 of 1988 had filed O.P.No. 2406 of 1987 before the High Court and based on the judgment of the High Court, the land value was fixed in their cases at Rs. 24,700/- per Are by the Land Acquisition Officer. However, the claimants in L.A.R.Nos. 133 and 134 of 1988 were granted land value only at the rate of Rs. 4,000/- per Are, on the ground that they had not filed Original Petition. All the plots involved in the land acquisition reference cases lie contiguously and all these lands were acquired simultaneously for the same purpose under the same notification. Land value was fixed in respect of some of the claimants at the rate of Rs.24,700/- on treating the date of award as the date of notification, as directed by the High Court. The court below held that in respect of the lands involved in L.A.R.Nos. 133 and 134 of 1988 also, the same yardstick must be applied, though those claimants have not filed Original Petitions before the High Court.

6. A commissioner was appointed, who submitted Ext. X1 report. Exts.A1 to A3 were relied on by the claimants to substantiate their

contentions. Ext. A1 is a document dated 02.08.1986 for assigning 3 ½ cents of land and the value thereof would come to Rs.35,000/- per cent . Ext.A2 dated 22.09.1986 would show that the property having an extent of 35 cents was sold at the rate of Rs. 30,000/- per cent of land. Ext.A3 would show that an extent of 12.75 cents of land with a building was sold for a consideration of Rs. 4,90,000/-.

7. A.Ws. 1 to 5 gave evidence regarding lie, location and nature of the acquired properties and their potential value. A.W.6 Senior Superintendent of Thrissur Urban Development Authority stated in evidence that 'Sakthan Thampuran Nagar' was originally a marshy land and it was developed by the Thrissur Urban Development Authority. The court below relied on the evidence of witnesses examined on the side of the claimants and also relied on Ext. X1 report submitted by the Commissioner and held that the Indoor Stadium, Regional Theatre, Yathra Nivas, Ramanilayam, Joseph Mundassery Hall and Town Hall are situated very near to the acquired property and that the acquired property has similar advantages and potentialities. The court below held that the

acquired land and the properties covered by Ext. A1 are not similar with similar advantages . It was held that Ext. A2 property lies in Sakthan Thampuran Nagar and that it is comparable with the acquired land. However, it was held that the land value shown in Ext. A2 cannot be safely relied on and acted upon to determine the land value of the acquired property. The court below held that Ext.R1 property is not similar and does not have similar advantages as that of the acquired land. R.W.1 stated in evidence that Ext.R1 property is a rear side plot and away from the acquired property. His evidence would also disclose that the acquired property is situated in a prominent place. After holding that there is no acceptable evidence to substantiate the claim of the claimants that the value of the acquired property was, ranging from, Rs. 30,000/- to Rs. 50,000/- and also after holding that the value as suggested by the Commissioner cannot be accepted, the court below held that the land value of the property has to be fixed at the rate of Rs. 24,500/- per cent. The court below has considered the documentary and oral evidence in the case in the correct perspective and has considered all material aspects of

the case . We agree with the reasonings and findings of the court below . There is no ground for interference in the land value fixed by the court below . Accordingly, the Land Acquisition Appeals are dismissed. No order as to costs .

**KURIAN JOSEPH,
JUDGE.**

**K.T. SANKARAN,
JUDGE.**

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KURIAN JOSEPH &
K.T. SANKARAN, JJ.

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L.A.A. Nos. 291, 287, 286, 289 and 290 of 2001.

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Dated this the 28th February, 2007.

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